

## CRYPTO ADAPTIVE PAYMENT MERCHANT TERMS OF BUSINESS

The following terms, conditions and policies form the Agreement between CRYPTO ADAPTIVE PAYMENT and the Merchant and it will be assumed that you have read and understood them.

### 1. DEFINITIONS

1.1. In this Agreement the following words and phrases will have the following meanings.

<b>Gateway</b>	the payment gateway service CRYPTO ADAPTIVE PAYMENT requires you to subscribe to from time to time.
<b>Acceptable Use Policy</b>	the policy described as such in Schedule 2 hereto.
<b>Additional Services</b>	additional services, if any, to be provided by CRYPTO ADAPTIVE PAYMENT and which are referred to in the Schedule 1.
<b>Agreement</b>	these Terms, the Schedules and all Policies referred to in either these Terms, the Schedules or all other documents annexed hereto.
<b>Applicable Data</b>	data generated pursuant to this Agreement.
<b>Applicable Tax</b>	all and any tax, duty, levy or other similar imposition on any Payment or any Fee.
<b>Authorisation</b>	confirmation that a payment in relation to a Transaction will be credited to the account of the Merchant by the Gateway.
<b>Chargeback</b>	the charge to a Merchant for a payment which is invalid or disputed.
<b>Chargeback Period</b>	the period within which the Card Issuer may make a Chargeback.
<b>Control</b>	in relation to a body corporate, the power of a person (with sufficient shares or voting rights) to secure that the affairs of that body are conducted in accordance with the wishes of that person and, in relation to a partnership, means the right to a share of more than one half of the assets.
<b>CRYPTO ADAPTIVE PAYMENT</b>	<b>3D-PROTOTYPE LIMITED</b> Company Number: 08788558 Registered Office: 135 Wilmington Gardens, Barking, IG11 9TR
<b>Customer</b>	the entity which wishes to make a payment using the Services.
<b>Data Protection Legislation</b>	the General Data Protection Regulation (EU 2016/679) or any replacement legislation applicable in England and Wales from time to time and any other applicable laws relating to the processing of personal data.
<b>Default Interest Rate</b>	the rate specified as such in Schedule 1 of, if no such rate is specified as the rate 6% above the base rate from time to time of Lloyds Bank plc.
<b>Disputed Transaction</b>	a Transaction which is disputed by the Customer in any manner.
<b>E-Commerce Platform</b>	the E-Commerce platform/s which CRYPTO ADAPTIVE PAYMENT require the Merchant to use from time to time.
<b>Event Data</b>	information about the Customer (other than that relating to Financial Transactions) obtained by the Merchant, the Gateway or CRYPTO ADAPTIVE PAYMENT.
<b>Failure Notice</b>	A notice from the Gateway or Card Issuer that a Transaction has been declined.

<b>Fees</b>	the fee payable by the Merchant to CRYPTO ADAPTIVE PAYMENT specified in Schedule 1 together with the fees and charges to which CRYPTO ADAPTIVE PAYMENT is entitled pursuant to the Agreement.
<b>Hosted Site</b>	The site provided by CRYPTO ADAPTIVE PAYMENT which allows for the capture of information which will enable a Transaction to be processed.
<b>Initial Term</b>	The period specified in Schedule 1.
<b>IPR</b>	means Intellectual Property Rights, as follows:  (a) any and all rights in any patents, trade marks, service marks, registered designs, Plug-Ins (and rights to apply for any of those rights) trade, business and company names, internet domain names and e-mail addresses, unregistered trade marks and service marks, copyrights, database rights, know-how, rights in designs and inventions; (b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a); (c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and (d) the right to sue for past infringements of any of the foregoing rights.
<b>Merchant</b>	the entity purchasing the Plug-In together with any merchants, vendors, sellers or other entities using the services provided to the Merchant pursuant to this Agreement.
<b>Merchant Product</b>	The goods or services provided by the Merchant and for which the services provided by CRYPTO ADAPTIVE PAYMENT under the terms of this Agreement are required.
<b>Merchant Site</b>	The site/s used by the Merchant to sell the Merchant Product.
<b>Payment</b>	A payment processed using the Services.
<b>Payment Failure Fee</b>	The Fee described as such in Schedule 1.
<b>Payment Method</b>	The method by which the Merchant pays the Fees due to CRYPTO ADAPTIVE PAYMENT.
<b>PCI-DSS</b>	Payment Card Industry Data Security Standard
<b>Platform</b>	The platform provided by CRYPTO ADAPTIVE PAYMENT through which the Services are provided.
<b>Plug-In</b>	the Plug-In provided by CRYPTO ADAPTIVE PAYMENT to the Merchant to enable the Merchant to use the services referred to in this Agreement.
<b>Processor Account</b>	the account or accounts, of any nature, provided to the Merchant by the Gateway and the E-Commerce Platform.
<b>Processors</b>	the Gateway, the E-Commerce Platform or either of them.
<b>Processor Contract</b>	the contract between the Merchant and each of the Processors.
<b>Processor Fees</b>	the fees, payment and charges levied from time to time by or under any Processor and which are applicable to any Transaction.
<b>Processor Rules</b>	the instructions, rules and regulations imposed upon the Customer or the Merchant, from time to time, by any Processor.
<b>Refund</b>	a Transaction which is reversed with the intention of refunding an amount paid by a Customer to that Customer.
<b>Reporting</b>	the provision of information to the Merchant in relation to the Services by CRYPTO ADAPTIVE PAYMENT using whatever means CRYPTO ADAPTIVE PAYMENT will, in its own discretion, use.
<b>Schedule</b>	a schedule to this Agreement.
<b>Service</b>	the services to be provided by CRYPTO ADAPTIVE PAYMENT to the Merchant pursuant to this Agreement.
<b>Security Data</b>	data, of any nature, obtained or collected in relation to any Transaction.

<b>Supplemental Agreement</b>	any agreement which is supplemental to this Agreement and describes itself as such.
<b>Terms</b>	the terms and conditions contained herein.
<b>Transaction</b>	requests made by the Merchant to use the Service.
<b>Transaction Data</b>	the data generated in relation to a Transaction by the systems used by the Merchant, CRYPTO ADAPTIVE PAYMENT or the Processor.
<b>Transaction Fee</b>	the fee described as such in Schedule 1.
<b>User Guide</b>	the guide (in whatever form and as amended from time to time) provided by CRYPTO ADAPTIVE PAYMENT to assist its users and to indicate how the Services are to be used.

- 1.2. Unless the context otherwise requires, each reference in this Agreement to:
  - 1.2.1. “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - 1.2.2. a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time and will include all subordinate legislation made from time to time;
  - 1.2.3. a “Party” or the “Parties” refers to the parties to this Agreement.
- 1.3. The headings used in this Agreement are for convenience only and will have no effect upon the interpretation of this Agreement.
- 1.4. Words imparting the singular number will include the plural and vice versa.
- 1.5. References to any gender will include any other gender.
- 1.6. References to persons will include corporations.
- 1.7. If there is any inconsistency between the Terms and any matter contained in any Schedule, these Terms will prevail, after which the Schedule will prevail.
- 1.8. Where the Merchant consists of more than one person all such persons will be jointly and severally liable for the performance of all Merchant obligations under this Agreement.

## **2. AGREEMENT**

In consideration of payment of the Fee by the Merchant to CRYPTO ADAPTIVE PAYMENT, CRYPTO ADAPTIVE PAYMENT will provide the Services subject to the Terms, the provisions of the Schedules hereto and any Supplemental Agreement. This Agreement will come into effect as soon first use of the Plug-In is made.

## **3. TERM**

This Agreement will commence on the Commencement Date for the Initial Term. Upon the expiry of the Initial Term this Agreement will automatically continue for the period equivalent to the Initial Term unless it has been subject to prior termination under the provisions of this Agreement or unless terminated by either Party giving to the other not less than three months’ prior written notice, such notice not to expire during the Initial Term.

## **4. THE SERVICES**

- 4.1. CRYPTO ADAPTIVE PAYMENT will provide the Merchant with an automated link between each of the Processors, which will allow payment due to the Merchant to be made in crypto currencies and divided between one or more payees.
- 4.2. The Merchant will use the Services only and strictly in accordance with the User Guide.
- 4.3. The Merchant must submit data relating to any Transaction in the form required by the Processor as amended from time to time.
- 4.4. The Merchant understands and accepts that CRYPTO ADAPTIVE PAYMENT does not process or involve itself in the processing of any financial transactions and that these are all dealt with by the Processor/s. CRYPTO ADAPTIVE PAYMENT will hold no financial data nor will it hold any Personal Data obtained by any of the parties to a Transaction.

- 4.5. CRYPTO ADAPTIVE PAYMENT is not required under this Agreement to provide the Merchant with access to the software and or any other process used by CRYPTO ADAPTIVE PAYMENT to perform the Service.
- 4.6. If there is a change to the legislation and/or the Processor Rules which will or might affect the Service, CRYPTO ADAPTIVE PAYMENT may make such alterations to the Service as it (in its sole opinion) deems reasonably appropriate from time to time.
- 4.7. This Agreement is personal to the Merchant and in no event will the Merchant use the Service for the processing of Transactions on behalf of a third party.
- 4.8. This Agreement is for CRYPTO ADAPTIVE PAYMENT to provide the Service but such Service does not include the licensing of any software.

## **5. CRYPTO ADAPTIVE PAYMENT OBLIGATIONS**

- 5.1. CRYPTO ADAPTIVE PAYMENT will provide the Service in accordance with the terms of this Agreement.
- 5.2. In providing the Service, CRYPTO ADAPTIVE PAYMENT will comply with all applicable laws and regulations and will, so far as is reasonably practicable, comply with such requirements as are notified to it by each Processor.
- 5.3. CRYPTO ADAPTIVE PAYMENT will provide the Service with reasonable skill and care and in accordance with standard industry practice.
- 5.4. CRYPTO ADAPTIVE PAYMENT will use reasonable endeavours to make the Service available to the Merchant at all times but will have no liability for delays, failures or issues caused or experienced by any Processor.
- 5.5. CRYPTO ADAPTIVE PAYMENT will use reasonable endeavours to co-operate with each Processor and will use reasonable endeavours to resolve any issues which arise between it and such Processor.
- 5.6. Where reasonably practicable, CRYPTO ADAPTIVE PAYMENT will publish advance notification of any changes affecting the Service or advice notes relating to the provision of the Service.

## **6. MERCHANT OBLIGATIONS**

- 6.1. The Merchant will promptly provide to CRYPTO ADAPTIVE PAYMENT such information as CRYPTO ADAPTIVE PAYMENT reasonably requires to provide the Service.
- 6.2. The Merchant acknowledges that any delay or failure to provide information and to comply with its obligations under this Clause 6 may result in CRYPTO ADAPTIVE PAYMENT being unable to provide the Service. CRYPTO ADAPTIVE PAYMENT has no responsibility for any losses, costs, damages or other liabilities arising from its inability to provide the Service in such circumstances.
- 6.3. The Merchant represents and warrants that:
  - 6.3.1. it has full capacity to enter into this Agreement;
  - 6.3.2. the Merchant has obtained all permissions, approvals, consents and releases necessary in connection with the Merchant Product and in relation to the Transaction (including but not limited to the IPR of any third party) and that the Transaction and the Merchant Product relating to the Transaction is not in any way unlawful;
  - 6.3.3. all information provided to CRYPTO ADAPTIVE PAYMENT in connection with its Plug-In and any other information it provides under this Agreement is accurate and complete and that no information has been withheld which could reasonably be expected to have adversely affected CRYPTO ADAPTIVE PAYMENT's decision to enter into this Agreement;
  - 6.3.4. in submitting Transactions for processing, the Merchant is complying with all applicable licensing obligations, Processor Rules, laws, regulations, restrictions and orders including but not limited to the appropriate declarations, payment, approvals and/or disclosures required to be made to or received from any regulatory tax authority and/or third party as a consequence of or arising in connection with the Transaction;

- 6.3.5. the Merchant has or will have prior to processing any Transactions a Processor Contract with each of the Processors and that no Transactions will be submitted unless valid and current Processor Contracts are in place; and
- 6.3.6. it will not use nor will it allow others to use the Service for any purpose of whatever nature which is or may be illegal in the jurisdiction in which the payment for the relevant transaction is made or received and that it has taken all necessary steps to ensure the legality of all payments it arranges using the Services.
- 6.4. The Merchant accepts that its relationship with CRYPTO ADAPTIVE PAYMENT is that provided by the Plug-In and that it has no other relationship with CRYPTO ADAPTIVE PAYMENT, and will not hold itself out as having any other relationship.
- 6.5. CRYPTO ADAPTIVE PAYMENT has no responsibility and neither will it have any part in resolving any disputes between the Merchant, its Customers and any Processor.
- 6.6. Any Transaction which has been accepted and authorised but later disputed, for any reason, which results in a Chargeback is the sole responsibility of the Merchant and CRYPTO ADAPTIVE PAYMENT has no responsibility in respect of any Chargeback.
- 6.7. The Merchant will at all times when using the Services comply, in all respects, with all Processor Rules, the terms of the Processor Contract, all applicable laws, regulations and codes of practice relating to and in the execution and performance of this Agreement and will not use the Service or permit the Service to be used in any manner which could, in CRYPTO ADAPTIVE PAYMENT's reasonable opinion, damage CRYPTO ADAPTIVE PAYMENT's reputation.
- 6.8. The Merchant will take all reasonable steps to detect and prevent fraud against any party involved in a Transaction and, should it have any reasonable suspicion of a fraudulent event, it will, immediately and without any delay, inform the Processors and, if it uses more than one Processor, inform each of them.
- 6.9. The Merchant will indemnify and keep CRYPTO ADAPTIVE PAYMENT fully and effectively indemnified against all actions, claims, costs (including reasonably incurred legal fees on a solicitor and own client basis), damages, demands, expenses, losses and liabilities incurred by, or made against, CRYPTO ADAPTIVE PAYMENT as a result of the Merchant's acts, omissions or breach of this Agreement, the Processor Rules, the Processor Contract or any relevant law.
- 6.10. The Merchant will, at all times, comply with the Acceptable Use Policy and not seek, in any manner, to circumvent it.
- 6.11. The Merchant will, on demand, provide to CRYPTO ADAPTIVE PAYMENT all codes and other security devices necessary for CRYPTO ADAPTIVE PAYMENT to examine the use by the Merchant, of the Services and to ensure that the provisions of this Agreement have been adhered to.
- 6.12. Any breach by the Merchant of any of the provisions of this Clause 6 will be deemed a material breach that is not capable of remedy for the purposes of this Agreement.

## **7. SETTLEMENT AND REMITTANCE**

- 7.1. Acceptance of any Transaction for processing by a Processor does not guarantee the settlement of any Transaction.
- 7.2. The Merchant acknowledges that the Processor will be solely responsible for paying the remittance to the Merchant and any third party to whom payment is to be made, and for the Authorisation and settlement of Transactions in accordance with the terms of the Processor Contract.
- 7.3. The Merchant is responsible for reconciling the settlement monies received from each Processor with the Transactions submitted to CRYPTO ADAPTIVE PAYMENT for processing and to immediately notify the appropriate Processor if there is any material discrepancy.
- 7.4. CRYPTO ADAPTIVE PAYMENT accepts no liability to the Merchant for any losses, damages, costs or expense arising out of any failure to pay a remittance to the Merchant on the relevant due date. The Merchant acknowledges that CRYPTO ADAPTIVE PAYMENT has no control over the funds handled nor any details of any Transaction conducted using the Service.



## **8. PAYMENT**

- 8.1. The Merchant will pay the Fees to CRYPTO ADAPTIVE PAYMENT (without deduction, set off or counterclaim) when they become due under the terms of this Agreement.
- 8.2. CRYPTO ADAPTIVE PAYMENT will issue its invoices directly to the Merchant in such manner as it will choose, from time to time, and will not be obliged to provide invoices in any other form.
- 8.3. The Merchant will provide CRYPTO ADAPTIVE PAYMENT with such authorities as CRYPTO ADAPTIVE PAYMENT may reasonably require, to obtain payment of the Fees from the Merchant's bank and other financial accounts.
- 8.4. If any payment due from the Merchant to CRYPTO ADAPTIVE PAYMENT is not made within 14 days of its due date, CRYPTO ADAPTIVE PAYMENT may charge and will be paid interest on the outstanding amount from the due date until the actual date of payment at the Default Interest Rate and may charge all its administration, legal and other expenses reasonably incurred in connection with pursuing and recovering such payment. In addition, CRYPTO ADAPTIVE PAYMENT may suspend the Services, or any part of them it shall choose, until payment, in full, of all monies due has been made.
- 8.5. CRYPTO ADAPTIVE PAYMENT may increase the Fees (or any of them) by giving not less than 30 days' notice to the Merchant. Notice of increases in the Fees may be given by e-mail or post. Notice of such increase need not be given to increases arising as a consequence of changes in legislation, regulation, Processor Rules, taxes and/or other circumstances beyond the reasonable control of CRYPTO ADAPTIVE PAYMENT.
- 8.6. Except where specified in this Agreement, the Merchant is committed to the Initial Term, during which it will be liable for all Fees.
- 8.7. The Merchant accepts and acknowledges that the fees of the Processors and any other party involved in a transaction are not included in the Fees and that the Fees do not include VAT and any other applicable tax, duty or imposition.

## **9. PCI-DSS**

- 9.1. CRYPTO ADAPTIVE PAYMENT warrants that it will, at all times (including in connection with all Financial Transactions), comply in all respects with requirements imposed upon it under PCI-DSS.
- 9.2. The Merchant warrants that, so far as it has any such obligations, it will comply, in all respects, with all or any PCI-DSS obligations and/or requirements to which it is subject, including but not limited to the Merchant's reporting, scanning and card data obligations and/or such other fraud protection policies as may apply from time to time to the Financial Transactions to which the Merchant is party.
- 9.3. The Merchant will not retain or store any Security Data.
- 9.4. If the Merchant knows or has reason to believe that any Financial Transactions (including Security Data) has been or may be lost, stolen or otherwise compromised, it will immediately notify the relevant Processor of the same and provide full details of the circumstances leading to the relevant security breach.
- 9.5. The Merchant confirms that it has in place and can take the appropriate action to ensure its site and/or services are compliant with secure socket layer ("SSL") and has undertaken the necessary Payment Card Industry ("PCI") scans and/or such other security actions as may be required under this Agreement, Processor Rules, the E-Money Issuer and/or as specified in the Merchant Contract.
- 9.6. The Parties agree the content of this Agreement may be disclosed to an approved PCI-DSS auditor for the purpose of a PCI-DSS audit.

## **10. REPORTING**

- 10.1. CRYPTO ADAPTIVE PAYMENT will from time to time report to the Merchant in relation to the Service, interruptions and upgrades to the Service and other information relating to it.
- 10.2. The Merchant will review (and, if needed, take all appropriate action in respect of) all information published by CRYPTO ADAPTIVE PAYMENT.

- 10.3. The Merchant acknowledges that the accuracy of any information provided by CRYPTO ADAPTIVE PAYMENT in relation to the Service depends on the accuracy of the information provided to it by the Merchant, each Processor and any third parties supplying any information and that the Merchant has the responsibility to review all such information and to point out any errors or inconsistencies, as soon as possible, to CRYPTO ADAPTIVE PAYMENT.
- 10.4. CRYPTO ADAPTIVE PAYMENT does not represent or warrant that the Reporting and/or Transaction function can be used to satisfy any of the Merchant's legal, audit, compliance, risk or other requirements.

## **11. SECURITY AND MERCHANT SYSTEMS**

- 11.1. The Merchant is solely responsible for integrating with CRYPTO ADAPTIVE PAYMENT's systems those of each Processor, including changes arising from any upgrade, revision or rewrite of the same.
- 11.2. The Merchant is responsible for testing and the regular monitoring of all integration links, interfaces and processing between CRYPTO ADAPTIVE PAYMENT and the Merchant. The Merchant will notify CRYPTO ADAPTIVE PAYMENT immediately the Merchant becomes aware of any problems with the same.
- 11.3. If the Merchant is unable to complete integration with CRYPTO ADAPTIVE PAYMENT's systems and services or those of any Processor, CRYPTO ADAPTIVE PAYMENT will not be required to refund any amounts the Merchant has already paid to CRYPTO ADAPTIVE PAYMENT.
- 11.4. CRYPTO ADAPTIVE PAYMENT will not be liable for any errors, omissions, losses or expenses arising directly or indirectly as a consequence of the integration process and/or the Merchant's testing, the Merchant's site, integration and/or the integration guides.

## **12. PROCESSOR-MERCHANT RELATIONSHIP**

- 12.1. The services offered by the Processor are subject to a contract between the Merchant and each Processor and nothing in this Agreement purports to limit, vary or otherwise alter any terms or conditions in that contract that apply therein and the Parties acknowledge that CRYPTO ADAPTIVE PAYMENT does not have that right.
- 12.2. The Merchant acknowledges that CRYPTO ADAPTIVE PAYMENT is not able to provide the Services unless the Merchant has a valid and current contract with a Processor.
- 12.3. Should the Merchant wish to change the Processor it is using, it must first notify CRYPTO ADAPTIVE PAYMENT in writing, obtain CRYPTO ADAPTIVE PAYMENT's agreement (in writing) to such change and pay any reasonable additional fees or charges of CRYPTO ADAPTIVE PAYMENT pursuant to such change.
- 12.4. The Merchant acknowledges that changes of any Processor, or in the manner in which any Processor does business, may result in an interruption to, suspension of and/or termination of the Services.

## **13. INTELLECTUAL PROPERTY RIGHTS**

- 13.1. CRYPTO ADAPTIVE PAYMENT shall retain the ownership of any and all IPR that may subsist in anything produced by it in the course of providing the Services. Throughout the Term of this Agreement, CRYPTO ADAPTIVE PAYMENT shall be deemed to have granted a royalty-free, non-exclusive licence of any and all such rights to the Merchant to use the same in accordance with the terms of this Agreement and the Services.
- 13.2. CRYPTO ADAPTIVE PAYMENT asserts all moral rights arising out of Chapter IV of the Copyright, Designs and Patents Act 1988.
- 13.3. The Merchant may not distribute or copy to any third party, any IPR supplied to the Merchant by CRYPTO ADAPTIVE PAYMENT and the Merchant will take all steps required to protect CRYPTO ADAPTIVE PAYMENT's IPR from disclosure to or access by any third party.
- 13.4. The Merchant will immediately notify CRYPTO ADAPTIVE PAYMENT if there is any claim by a third party that any IPR supplied by CRYPTO ADAPTIVE PAYMENT is in breach of any third party rights.

#### **14. TERM AND TERMINATION**

- 14.1. This Agreement will commence on the Commencement Date and, except as otherwise provided in this Agreement, continue in force for the Initial Term together with any renewal of the Initial Term (if applicable).
- 14.2. CRYPTO ADAPTIVE PAYMENT may, at its option, suspend the Services and/or terminate this Agreement with immediate effect on written notice to the Merchant if:
  - 14.2.1. any sum owing to CRYPTO ADAPTIVE PAYMENT by the Merchant under any of the provisions of this Agreement is not paid within 10 Business Days of the due date for payment;
  - 14.2.2. the Merchant commits any other breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 10 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
  - 14.2.3. an encumbrancer takes possession of the assets of the Merchant, or where the Merchant is a company, a receiver is appointed, of any of the property or assets of the Merchant;
  - 14.2.4. the Merchant makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
  - 14.2.5. the Merchant, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Merchant under this Agreement);
  - 14.2.6. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Merchant;
  - 14.2.7. the Merchant ceases, or threatens to cease, to carry on business;
  - 14.2.8. control of the Merchant is acquired by any person or connected persons not having control of that other party on the date of this Agreement. For the purposes of this Clause 14, “control” and “connected persons” shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010;
  - 14.2.9. the Merchant engages in any activity which, in the absolute discretion of CRYPTO ADAPTIVE PAYMENT, directly or indirectly competes with the business of CRYPTO ADAPTIVE PAYMENT;
  - 14.2.10. the Merchant breaches the Processor Rules or the Acceptable Use Policy;
  - 14.2.11. the Merchant ceases to have a Merchant Contract with a Processor or fails to enter into a Merchant Contract with a Processor or does not comply with the CRYPTO ADAPTIVE PAYMENT risk and compliance processes applicable to the Merchant;
  - 14.2.12. the Merchant is subject to a security breach, threat, virus and/or adverse event which in the reasonable opinion of CRYPTO ADAPTIVE PAYMENT is likely to compromise and/or impact the processing of the Transactions;
  - 14.2.13. the Merchant fails to comply with any instruction, notice and/or request from CRYPTO ADAPTIVE PAYMENT in relation to the use and/or display of any intellectual property over which CRYPTO ADAPTIVE PAYMENT has IPR, including but not limited to any trade mark and/or logo of CRYPTO ADAPTIVE PAYMENT;
  - 14.2.14. any event occurs in relation to the Merchant which in CRYPTO ADAPTIVE PAYMENT’s reasonable opinion could damage CRYPTO ADAPTIVE PAYMENT’s reputation, prove detrimental to CRYPTO ADAPTIVE PAYMENT’s business or may give rise to fraud, suspicion of fraud or any other criminal activity.
- 14.3. The Merchant may terminate this Agreement with immediate effect on written notice to CRYPTO ADAPTIVE PAYMENT if:
  - 14.3.1. CRYPTO ADAPTIVE PAYMENT commits any material breach of this Agreement and in the case of a material breach capable of remedy, fails to remedy it within 30 days after service, and confirmation of receipt, of a written notice requiring it to do so;
  - 14.3.2. CRYPTO ADAPTIVE PAYMENT goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company



resulting therefrom effectively agrees to be bound by or assume the obligations imposed on CRYPTO ADAPTIVE PAYMENT under this Agreement);

- 14.4. Either Party may terminate this Agreement by giving the other Party not less than three months' notice in writing, which termination will be effective on the date of expiry of the Initial Term or any renewal of that Term as applicable.

## **15. EFFECTS OF TERMINATION**

Upon the termination of this Agreement for any reason:

- 15.1. any sum owing by either Party to the other under any of the provisions of this Agreement shall become immediately due and payable;
- 15.2. all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of this Agreement shall remain in full force and effect;
- 15.3. termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of this Agreement which existed at or before the date of termination;
- 15.4. subject as provided in this Clause 15 and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and
- 15.5. each Party shall (except to the extent referred to in Clause 33) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

## **16. LIABILITIES**

- 16.1. CRYPTO ADAPTIVE PAYMENT will not be liable to the Merchant whether in contract (including under any indemnity or warranty), in tort (including negligence), under statute or otherwise for any:
  - 16.1.1. loss of profit, of revenue, or of anticipated savings;
  - 16.1.2. loss or corruption of data;
  - 16.1.3. loss of contract or opportunity or loss of goodwill;
  - 16.1.4. processing fees or borrowing costs;
  - 16.1.5. costs relating to the integration to systems and services provided by CRYPTO ADAPTIVE PAYMENT;
  - 16.1.6. Cardholder compensation payment (including but not limited to any ex gratia payment) or costs associated with Cardholder disputes; or
  - 16.1.7. indirect or consequential loss of whatever nature including any loss of a type described in sub-clauses 16.1.1 to 16.1.6 above which could be regarded as indirect or consequential and whether or not reasonably foreseeable, reasonably contemplable, or actually contemplated by the Parties at the time of execution of this Agreement.
- 16.2. The Merchant acknowledges and accepts that currency fluctuations can happen rapidly and can cause large differences in the exchange rates which can be obtained. For those reasons, the Merchant accepts that CRYPTO ADAPTIVE PAYMENT has no liability for any adverse exchange rates due to any delay in processing any transaction processed using the Services.
- 16.3. The Merchant agrees that CRYPTO ADAPTIVE PAYMENT will have no liability to pay or, in any way, subsidise the fees charged by any Processor, Gateway or other entity which might assist in providing the Services to the Merchant (other than the fees, if any, directly incurred by CRYPTO ADAPTIVE PAYMENT in providing the Services to the Merchant).
- 16.4. Subject to Clauses 16.1 and 16.2 the Parties agree that:
  - 16.4.1. if CRYPTO ADAPTIVE PAYMENT is liable to the Merchant in contract, tort, by statute or in any other manner the liability of CRYPTO ADAPTIVE PAYMENT to the Merchant will be limited, to the full extent permissible by the law, in respect of each event or series of connected events to an amount equal to the amount of Fees paid by the Merchant to CRYPTO ADAPTIVE PAYMENT in the calendar year in which the claim is first notified to CRYPTO ADAPTIVE PAYMENT; and

- 16.4.2. in no event will the total cumulative liability of CRYPTO ADAPTIVE PAYMENT to the Merchant under this Agreement exceed an amount equal to the amount of Fees paid or payable by the Merchant to CRYPTO ADAPTIVE PAYMENT during the preceding 12 months of the Term.
- 16.4.3. This clause will not limit the Merchant's liability to pay CRYPTO ADAPTIVE PAYMENT any amounts due under this Agreement.
- 16.5. Any action against CRYPTO ADAPTIVE PAYMENT must be brought within 12 months after the cause of action arises.
- 16.6. The Parties agree that the limitations on liability contained in this Agreement have been subject to commercial negotiation and are reasonable in all the circumstances.
- 16.7. CRYPTO ADAPTIVE PAYMENT does not accept any responsibility for the accuracy of Financial Transactions or any liabilities to the Merchant or other third party for any inaccuracies or misrepresentations contained in the Financial Transactions.
- 16.8. CRYPTO ADAPTIVE PAYMENT does not represent or warrant that the Merchant's use of the Services will be secure, timely, uninterrupted or error-free or that the Services will meet the Merchant's requirements. For the avoidance of doubt, CRYPTO ADAPTIVE PAYMENT does not give any representation or warranty that the Services will alert the Merchant to, avert or prevent occurrences of fraudulent use of the System and the Merchant acknowledges that it should obtain insurance against such fraudulent behaviour. The Services are provided on an "as is" and "as available" basis and for commercial use only.
- 16.9. Except as expressly provided in this Agreement, all warranties, conditions, representations or other terms implied by statute or common law are excluded to the fullest extent possible by law.
- 16.10. Any typographical, clerical or other error or omission in any promotional material or other information issued by CRYPTO ADAPTIVE PAYMENT (including information on CRYPTO ADAPTIVE PAYMENT's site) will be subject to correction without any liability on the part of CRYPTO ADAPTIVE PAYMENT.
- 16.11. Nothing in this Agreement will exclude or limit the liability of either Party:
  - 16.11.1. for death or personal injury resulting from the negligence of that Party or its directors, officers, employees, contractors or agents; or
  - 16.11.2. in respect of fraud or of any statements made fraudulently by that Party or its directors, officers, employees, contractors or agents.

## **17. DATA PROTECTION AND PROCESSING**

- 17.1. In this Clause 17, "personal data", "data subject", "data controller", "data processor" and "personal data breach" will have the meanings defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation ("GDPR").
- 17.2. The Parties hereby agree that they will both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 17 will not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
- 17.3. For the purposes of the Data Protection Legislation and for this Clause 17, CRYPTO ADAPTIVE PAYMENT is the "Data Processor" and the Merchant is the "Data Controller".
- 17.4. The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing are the names, addresses, IP addresses, telephone numbers, bank account details, payee details, purchase details and all other data transmitted using the Services.
- 17.5. The Data Controller will ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement.
- 17.6. The Data Processor will, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:
  - 17.6.1. Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor will promptly notify the Data Controller of such processing unless prohibited from doing so by law.
  - 17.6.2. Ensure that it has in place suitable technical and organisational measures (as approved

- by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures will be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures.
- 17.6.3. Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential.
  - 17.6.4. Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:
    - 17.6.4.1. the Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
    - 17.6.4.2. affected data subjects have enforceable rights and effective legal remedies;
    - 17.6.4.3. the Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
    - 17.6.4.4. the Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
  - 17.6.5. Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office).
  - 17.6.6. Notify the Data Controller without undue delay of a personal data breach.
  - 17.6.7. On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law.
  - 17.6.8. Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 17 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.
  - 17.7. The Data Processor will not sub-contract any of its obligations to a sub-processor with respect to the processing of personal data under this Clause 17 without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints a sub-processor, the Data Processor will:
    - 17.7.1. enter into a written agreement with the sub-processor, which will impose upon the sub-processor the same obligations as are imposed upon the Data Processor by this Clause 17 and which will permit both the Data Processor and the Data Controller to enforce those obligations; and
    - 17.7.2. ensure that the sub-processor complies fully with its obligations under that agreement and the Data Protection Legislation.

## **18. NO WAIVER**

No failure or delay by either Party in exercising any of its rights under this Agreement will be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of the same or any other provision.

## **19. FURTHER ASSURANCE**

Each Party will execute and do all such further deeds, documents and things as may be necessary to carry the provisions of this Agreement into full force and effect.

## **20. COSTS**

Subject to any provisions to the contrary each Party to this Agreement will pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.

**21. SET-OFF**

The Merchant will not be entitled to set-off any sums in any manner from payment due or sums received in respect of any claim under this Agreement or any other agreement at any time.

**22. TIME**

The Parties agree that the times and dates referred to in this Agreement are for guidance only and are not of the essence of this Agreement and may be varied by mutual agreement between the Parties.

**23. RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement will constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

**24. NON-SOLICITATION**

- 24.1. Neither Party will, for the Term of this Agreement and for a period of 12 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to this Agreement without the express written consent of that Party.
- 24.2. Neither Party will, for the term of this Agreement and for a period of 12 months after its termination or expiry, solicit or entice away from the other Party any customer or client where any such solicitation or enticement would cause damage to the business of that Party without the express written consent of that Party.

**25. THIRD PARTY RIGHTS**

- 25.1. No part of this Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 will not apply to this Agreement.
- 25.2. Subject to this Clause 25 this Agreement will continue and be binding on the transferee, successors and assigns of either Party as required.

**26. NOTICES**

- 26.1. All notices under this Agreement will be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
  - 26.2. Notices will be deemed to have been duly given:
    - 26.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
    - 26.2.2. when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
    - 26.2.3. on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
    - 26.2.4. on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- In each case notices will be addressed to the most recent address, e-mail address or facsimile number notified to the other Party.

**27. ENTIRE AGREEMENT**

- 27.1. This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 27.2. Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**28. COUNTERPARTS**

This Agreement may be entered into in any number of counterparts and by the Parties to it on

separate counterparts each of which when so executed and delivered will be an original, but all the counterparts together will constitute one and the same instrument.

## **29. SEVERANCE**

In the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) will be deemed severed from the remainder of this Agreement. The remainder of this Agreement will be valid and enforceable.

## **30. BRAND MANAGEMENT**

- 30.1. The Merchant will display CRYPTO ADAPTIVE PAYMENT trade marks (subject to any reasonable conditions imposed by CRYPTO ADAPTIVE PAYMENT from time to time – the breach of which will be a material breach for the purposes of this Agreement) for the purpose of informing the Merchant's Customers that the Services are being provided by CRYPTO ADAPTIVE PAYMENT.
- 30.2. CRYPTO ADAPTIVE PAYMENT hereby gives the Merchant a non-exclusive licence to display CRYPTO ADAPTIVE PAYMENT trade marks (including but not limited to its name and logo) on the Merchant's site for the duration of this Agreement (but reserves the right to withdraw such consent at any time and for any reason).
- 30.3. The Merchant warrants and represents the Merchant's IPR and/or Merchant Product does not and will not infringe the IPR or any other similar rights of any third party.
- 30.4. The Merchant hereby grants CRYPTO ADAPTIVE PAYMENT a world-wide, non-exclusive, royalty-free right and licence to use, display and reproduce the Merchant's trade marks and other IPR solely in connection with the provision of the Services.

## **31. FORCE MAJEURE**

- 31.1. No Party to this Agreement will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.
- 31.2. In the event that a Party to this Agreement cannot perform their obligations hereunder as a result of force majeure for a continuous period of 60 days, the other Party may at its discretion terminate this Agreement by written notice at the end of that period. In the event of such termination, the Parties will agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment will take into account any prior contractual commitments entered into in reliance on the performance of this Agreement.

## **32. ASSIGNMENT AND SUB-CONTRACTING**

- 32.1. Subject to sub-Clause 32.2, this Agreement is personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-license or otherwise delegate any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder without the written consent of the other Party, such consent not to be unreasonably withheld.
- 32.2. CRYPTO ADAPTIVE PAYMENT shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of this Agreement, be deemed to be an act or omission of CRYPTO ADAPTIVE PAYMENT.

## **33. CONFIDENTIALITY**

- 33.1. Each Party undertakes that, except as provided by sub-Clause 33.2 or as authorised in writing by the other Party, it shall, at all times during the continuance of this Agreement and after its termination:
  - 33.1.1. keep confidential all Confidential Information;
  - 33.1.2. not disclose any Confidential Information to any other party;
  - 33.1.3. not use any Confidential Information for any purpose other than as contemplated by



- and subject to the terms of this Agreement;
- 33.1.4. not make any copies of, record in any way or part with possession of any Confidential Information; and
- 33.1.5. ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 33.1.1 to 33.1.4 above.
- 33.2. Either Party may:
- 33.2.1. disclose any Confidential Information to:
- 33.2.1.1. any sub-contractor or supplier of that Party;
- 33.2.1.2. any governmental or other authority or regulatory body; or
- 33.2.1.3. any employee or officer of that Party or of any of the aforementioned persons, parties or bodies,
- to such extent only as is necessary for the purposes contemplated by this Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 33.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of this Clause 33, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
- 33.2.2. use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.
- 33.3. The provisions of this Clause 33 shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.

#### **34. LAW AND JURISDICTION**

- 34.1. This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 34.2. Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

## **SCHEDULE 1**

<b>Fees and Payment Terms</b>	\$129.00 – Initial Subscription \$75.00 – per annum
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## **SCHEDULE 2** **ACCEPTABLE USE POLICY**

1. The Merchant must at all times:
  - 1.1 be a company properly registered under the provisions of the jurisdiction in which it does business and which complies with all local laws, statutes, regulations and rules;
  - 1.2 only permit access to or requests for the Services to be made on its behalf by representatives over the age of 18;
  - 1.3 have all necessary licences and authorisations in place in order to carry on its business;
  - 1.4 comply with PCI Data Security Standard or such other fraud prevention standards as may be imposed by the Processors from time to time.
2. The Merchant agrees that it will not use the Services (or allow the Services to be used) directly or indirectly for the sale, promotion, distribution or marketing of any product, service or other matter which is, may be or may become in breach of the Processor Rules.